

# VA | Appeals Modernization

September 2018

Cheryl L. Mason, Chairman – Board of Veterans' Appeals



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# Department Organization



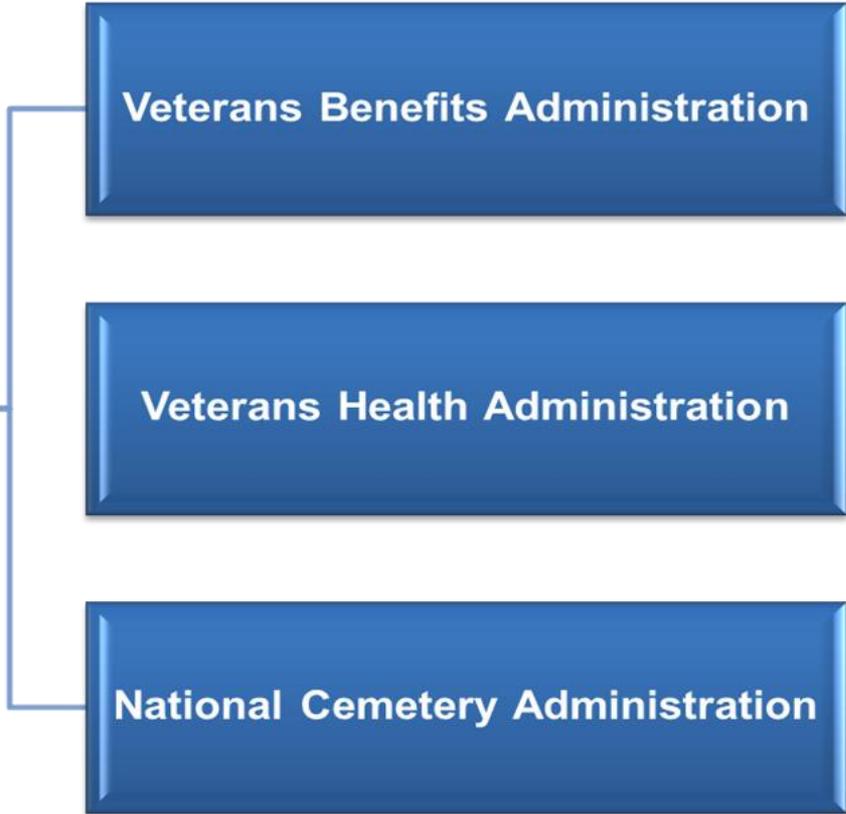
Office of the Secretary

Board of Veterans' Appeals\*

Veterans Benefits Administration

Veterans Health Administration

National Cemetery Administration



\* The Board reports directly to the Office of the Secretary.



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# Overview

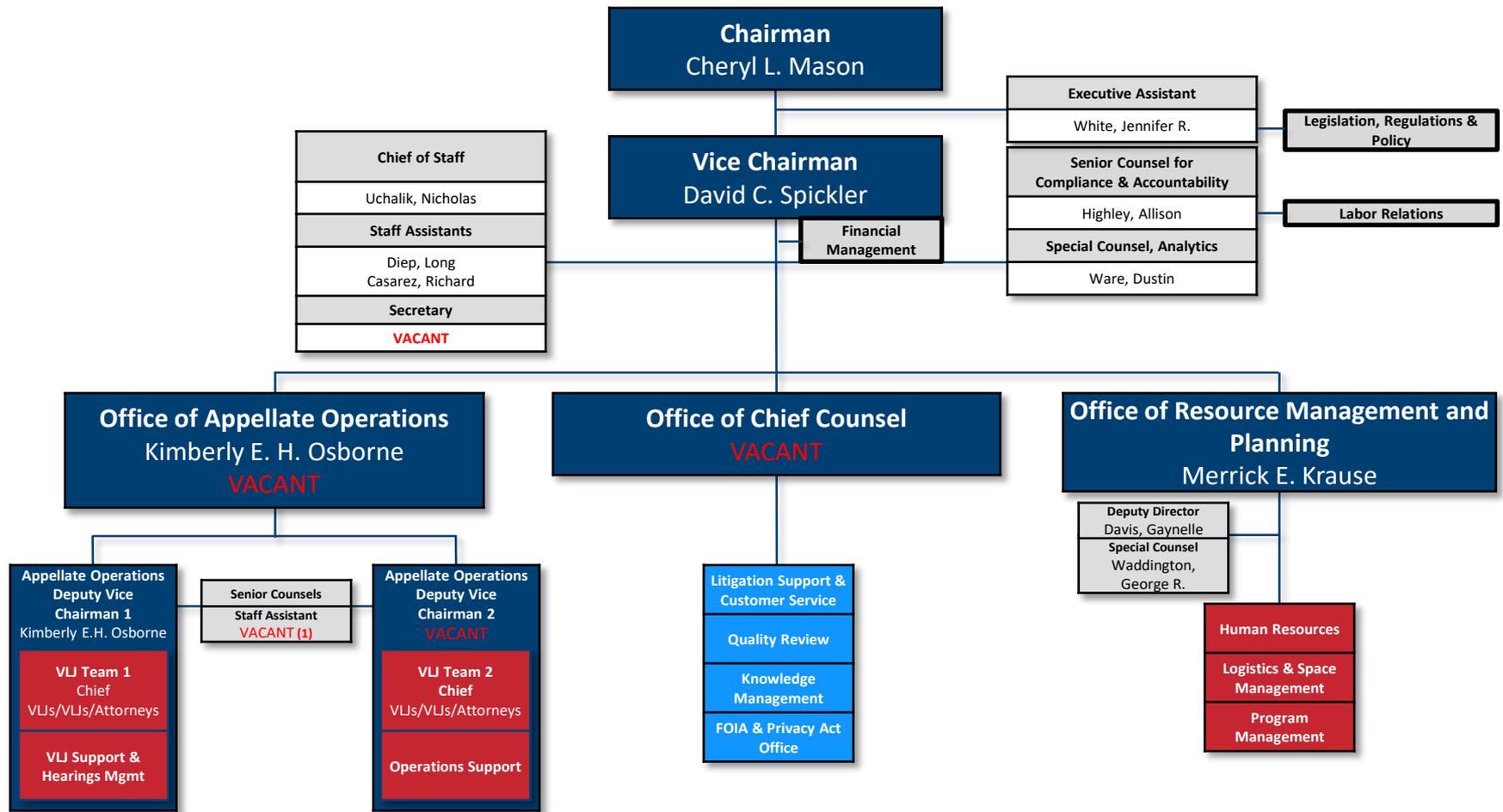
## Mission

The Board's mission is to conduct hearings and decide appeals properly before the Board in a timely manner. *See* 38 United States Code (U.S.C.) § 7101(a).

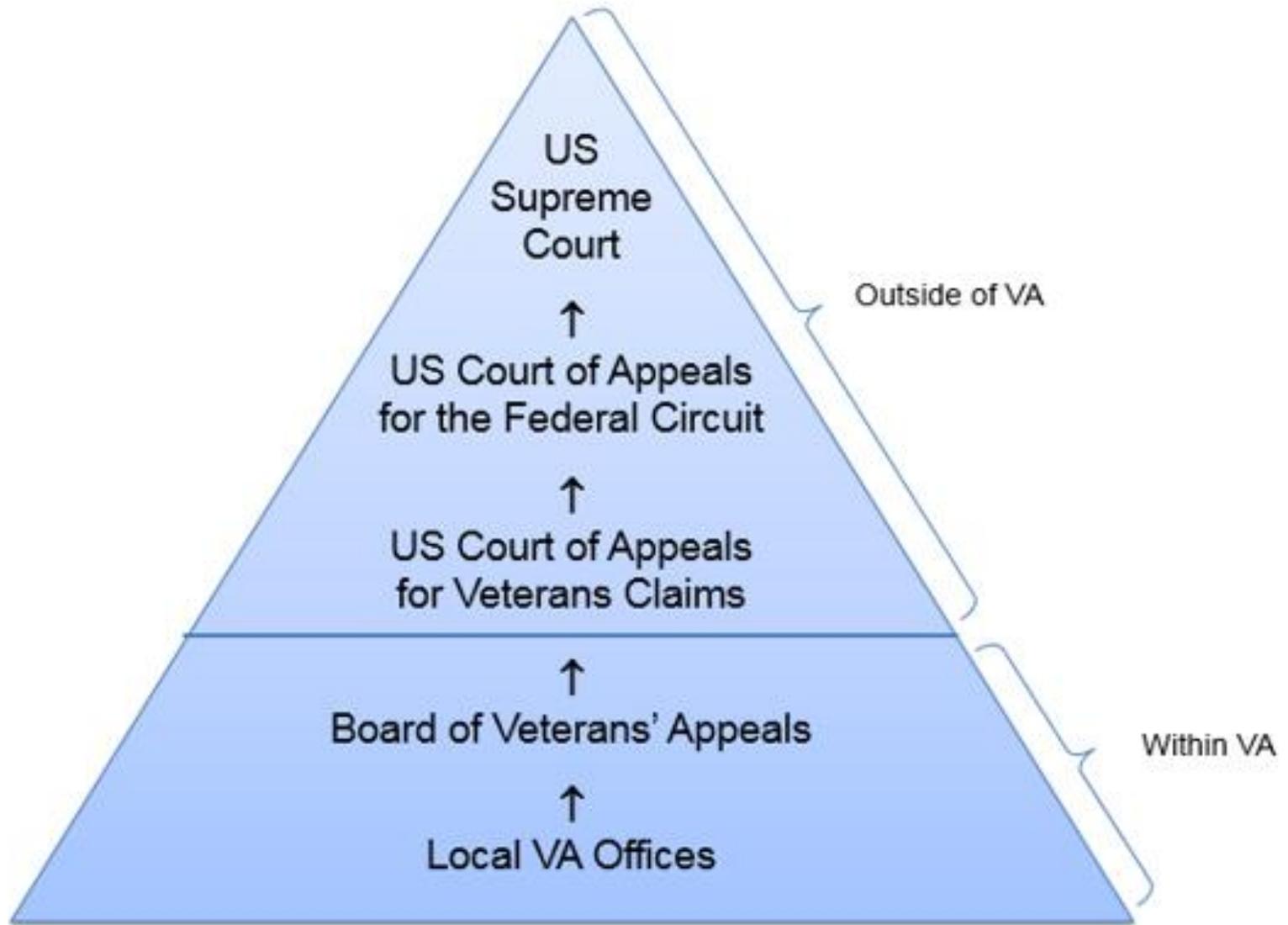
## Background

All questions in a matter under which 38 U.S.C. § 511(a) is subject to decision by the Secretary shall be subject to one review on appeal to the Secretary. Final decisions on such appeals are made by the Board.

# Board of Veteran's Appeals



# The Appellate Landscape



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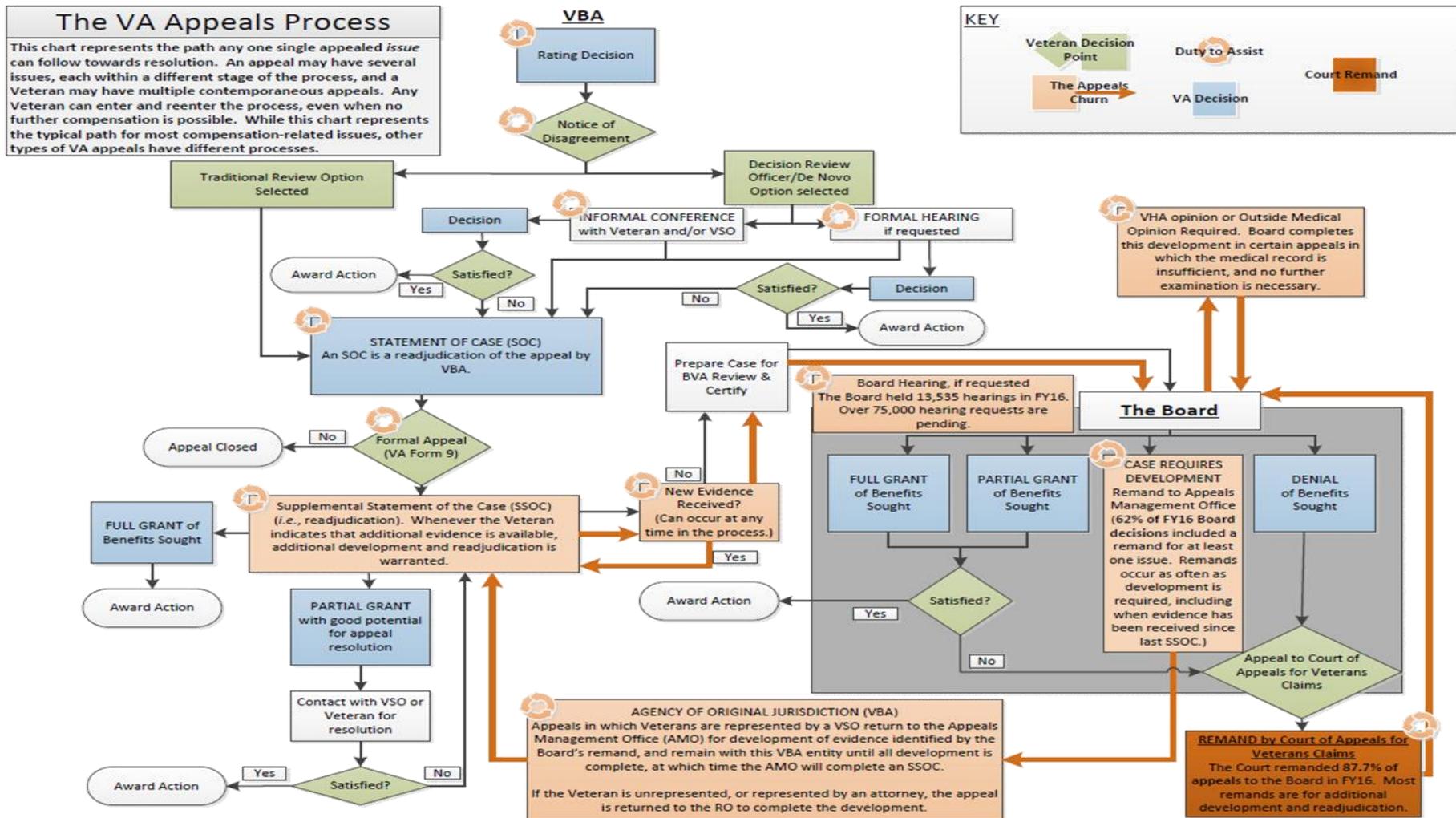
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# Problem: VA Appeal Process Today

**The VA Appeals Process**  
 This chart represents the path any one single appealed issue can follow towards resolution. An appeal may have several issues, each within a different stage of the process, and a Veteran may have multiple contemporaneous appeals. Any Veteran can enter and reenter the process, even when no further compensation is possible. While this chart represents the typical path for most compensation-related issues, other types of VA appeals have different processes.



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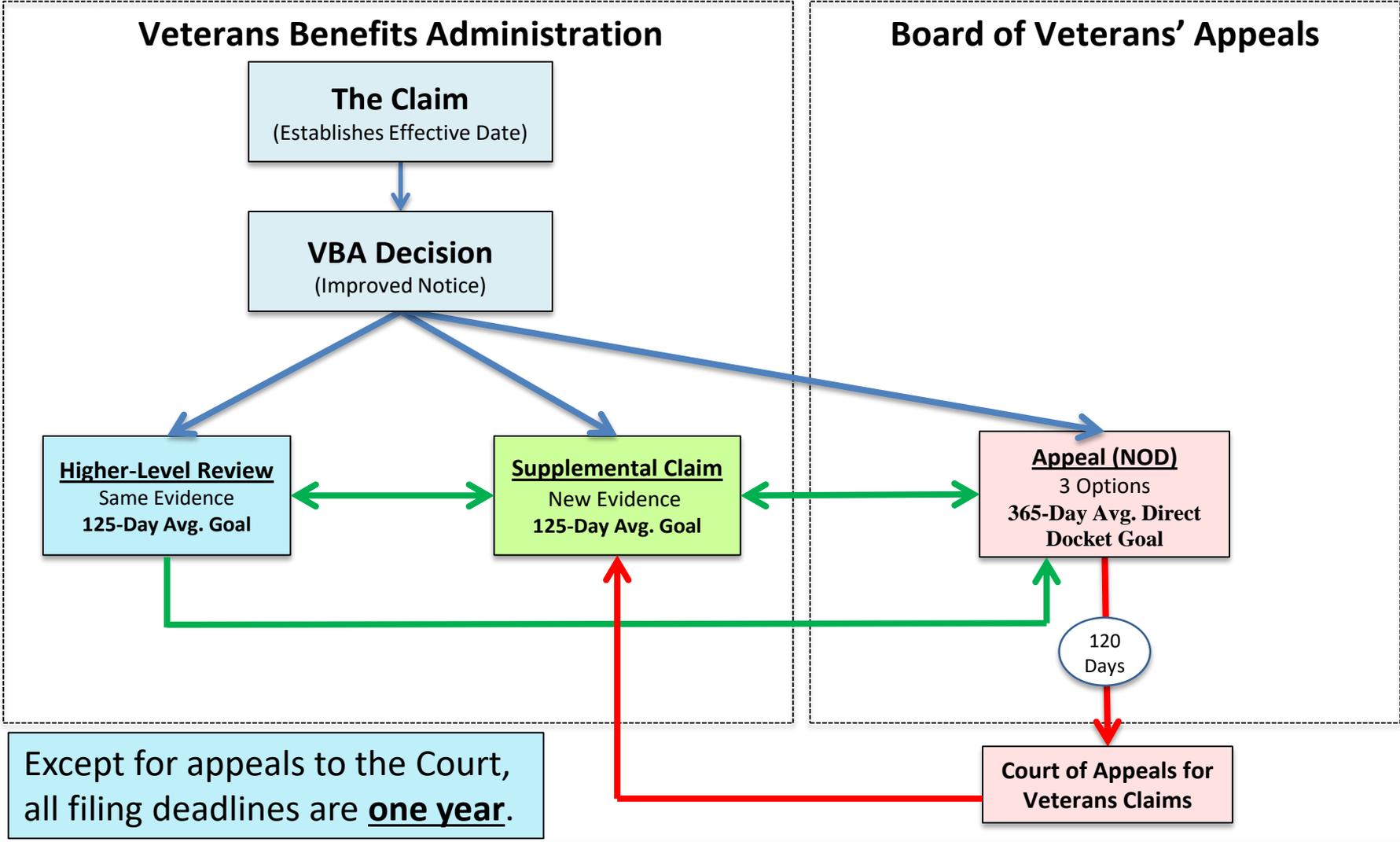
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# Problem: Complex Current Appeal Process

The current VA appeal process, set in law, is **complex, non-linear, and unlike other standard appeals processes.**

- **Too long** – No defined timeframe.
  - Veterans waiting an average of **7 years** for a Board decision
- **Too complex** – Process is hard to understand, contains too many steps, and difficult to explain.

# New Decision Review Process



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# Solution: Appeals Modernization Act

- On August 23, 2017, the [Veterans Appeals Improvement and Modernization Act of 2017](#) was signed into law. The new law takes effect in February 2019.
- The law creates a **new** decision review process, which features three lanes:
  - [Higher-Level Review](#) – An entirely new review of the claim by an experienced adjudicator
  - [Supplemental Claim](#) – An opportunity to submit additional evidence
  - [Appeal](#) – Review by the Board of Veterans' Appeals



# New Process: Three Lanes

VBA	VBA	Board
<b>Supplemental Claim Lane</b>	<b>Higher-Level Review Lane</b>	<b>Appeal Lane</b>
<ul style="list-style-type: none"><li>• VA will readjudicate a claim if “<b>new and relevant</b>” evidence is presented or identified with a supplemental claim (<b>open record</b>)</li><li>• VA will assist in gathering new and relevant evidence (<b>duty to assist</b>).</li><li>• Effective date for benefits always protected (submitted within 1 year of decision)</li></ul>	<ul style="list-style-type: none"><li>• More experienced VA employee takes a second look at the same evidence (<b>closed record and no duty to assist</b>)</li><li>• Option for a one-time telephonic <b>informal conference</b> with the higher-level reviewer to discuss the error in the prior decision</li><li>• <i>De novo</i> review with full difference of opinion authority</li><li>• Duty to assist errors returned to lower-level for correction (<b>quality feedback</b>)</li></ul>	<ul style="list-style-type: none"><li>• <b>Evidence only docket:</b> Additional evidence submitted within 90 days following NOD</li><li>• <b>Direct docket:</b> Closed record and 365-day average processing time goal</li><li>• <b>Hearing docket:</b> Board hearing and additional evidence submitted within 90 days following hearing</li></ul>

# Which VBA lane to choose?

Under Appeals Modernization beginning February 2019

	Supplemental Claim	Higher Level Review
When to choose	If your claim needs <b>new evidence</b> .	If you don't need new evidence, but think a <b>mistake</b> was made.
What will happen	<b>VA will help</b> you gather the evidence. A new decision will be made looking at the new evidence.	A <b>higher-trained</b> VBA employee will review your claim and make a new decision.  <b>No new evidence</b> will be added.
How long	<b>125 days</b> (on average)	<b>125 days</b> (on average)



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# Which Board docket to choose?

Choose the Board if you have a **legal argument** to make before a Veterans Law Judge.

	Direct	Evidence	Hearing
When to choose	If you think a <b>mistake</b> was made.	If you have <b>new evidence</b> you want a Judge to consider.	If you want a <b>hearing</b> before a Judge.
What will happen	The Judge will review the same record and make a decision.  <b>No new evidence</b> will be added.	You will have <b>90 days</b> from your NOD to submit any new evidence.  The Judge will make a decision considering the evidence you provided.	You will be placed on a list for a hearing before a Judge by videoconference (or in DC).  After your hearing you will have <b>90 days</b> to submit new evidence.  The Judge will make decision considering the hearing and the evidence you provided.
How long	<b>365 days</b> (on average)	<b>Over 365 days</b>	Based on availability. Currently the Board has 91 Judges. There are 78,000 Veterans waiting for hearings. In FY 17 Judges held an average of 177 hearings per year.



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# Dual Systems

- The AMA remakes the VA appeals process, and will be the **only** framework going forward.
- VA will operate **both** systems in the transition.
  - VA will receive **new** legacy appeals through February 2020
    - Veterans receiving a Rating Decision prior to implementation in February 2019 have **one year** to file a **legacy** NOD
  - Other sources:
    - Pending inventory
    - Remands from the Board, Court of Appeals for Veterans Claims, and Federal Circuit



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# Rapid Appeals Modernization Program

The *Rapid Appeals Modernization Program (RAMP)*

began on November 1, 2017 and allows eligible Veterans with pending appeals the option to have their decisions reviewed in the new **Higher-Level Review** or **Supplemental Claim** lanes

*As of April 2, 2018 any Veteran that meets the eligibility criteria below may participate in RAMP (no invitation required)*

- Participation is voluntary and Veterans are encouraged to opt in
- Veterans must have an active disability compensation appeal in one of the following appeal stages:
  - NOD
  - Form 9
  - Certified to the Board (not activated)
  - Remand



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# RAMP vs AMA Opt-In Window

- Under **RAMP** Veterans can opt in at any of the following stages:
  - NOD
  - Form 9
  - Certified to the Board (not activated)
  - Remand
- After full implementation in **February 2019**, Veterans with pending legacy appeals can only opt in at the following stages:
  - SOC
  - SSOC



# RAMP Quick Stats - National

**Legacy Appeals  
Converted**

59,487

**RAMP Lane  
Choices**

HLR – 62%  
Supp – 38%

**NOD to Opt-in  
Days (Avg.)**

760 Days

**Average Days to  
Complete**

104 Days

**Retroactive  
Benefits  
Awarded**

\$ 70,099,873

**Claim Grant  
Rate**

Total – 28%  
HLR – 28%  
Supp – 28%

\* All data shown as of September 20, 2018



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# Board Dockets FY 19

Priority to Advanced on the Docket on all dockets.

Board Priorities
Legacy appeals
Legacy appeals with hearings*
AMA Direct Lane (365 average processing goal)
AMA Evidence
AMA Hearings* **

\*Hearing requests may result in a multi-year delay in Board adjudication. Approximately 78,000 Veterans are waiting for a hearing with one of the 92 VLJs.

\*\* Hearings for appeals of RAMP decisions will not be scheduled until after February 2019



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# RAMP Selection Form



## STATEMENT IN SUPPORT OF CLAIM

**PRIVACY ACT INFORMATION:** The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA Programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA21/22/23, Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

**RESPONDENT BURDEN:** We need this information to obtain evidence in support of your claim for benefits (38 U.S.C. 501(a) and (b)). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 15 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

FIRST NAME - MIDDLE NAME - LAST NAME OF VETERAN (Type or print)

SOCIAL SECURITY NO.

VA FILE NO.

C/CSS -

The following statement is made in connection with a claim for benefits in the case of the above-named veteran:

### RAMP SELECTION

Use this form to seek additional review under RAMP until the new system becomes effective on or after February 14, 2019, at which time you will have to follow the new application requirements outlined in the new appeals system. Filing instructions will be available at <https://www.benefits.va.gov/benefits/appeals>.

**Instruction:** Please list the issues you are seeking review of below and on the next page select the type of review you would like from the choices provided. Note that you may select **ONLY ONE** type of review for all issues identified on this form. See the "RAMP Review Rights" document for information on each review option and mailing instructions.

I would like to seek further review of the following issues (use additional page if necessary):



I CERTIFY THAT the statements on this form are true and correct to the best of my knowledge and belief.

SIGNATURE

DATE SIGNED

ADDRESS

TELEPHONE NUMBERS (Include Area Code)

DAYTIME

EVENING

**PENALTY:** The law provides severe penalties which include fine or imprisonment, or both, for the willful submission of any statement or evidence of a material fact, knowing it to be false.

VA FORM 21-4138  
JAN 2015

SUPERSEDES VA FORM 21-4138, AUG 2011,  
WHICH WILL NOT BE USED.

CONTINUE ON REVERSE

I elect to have all issues reviewed under the following option (Check **ONLY ONE** of the boxes below):

- I am filing a **Supplemental Claim**. I understand that I must submit or identify new and relevant evidence that was not previously considered by the local VA office.
- I am requesting a **Higher-Level Review** based on the evidence of record at the time of the prior decision.
- I am requesting a **Higher-Level Review** based on the evidence of record at the time of the prior decision and I am requesting a **one-time informal conference** with the Higher-Level Reviewer. If you have an accredited representative (VSO, attorney, or agent) please include his or her contact information below. (This option may cause some delay in the processing of your higher-level review.)

Representative/Org. \_\_\_\_\_

Phone Number \_\_\_\_\_

I am appealing to the Board of Veterans' Appeals (Board). I understand the Board will not process my appeal under the new system until no earlier than October 2018. I would like the following review option:

- Direct Review** (Based on the evidence of record at the time of the prior decision; NO evidence submission or hearing request)
- Evidence Submission** (Evidence submission within 90 days; NO hearing request)
- Hearing** (Hearing with evidence submission allowed) (This option may cause some delay in receiving a decision by the Board.)

VA FORM 21-4138, JAN 2015



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# Board 2.0



**Action**



**Service**



**Modernization**



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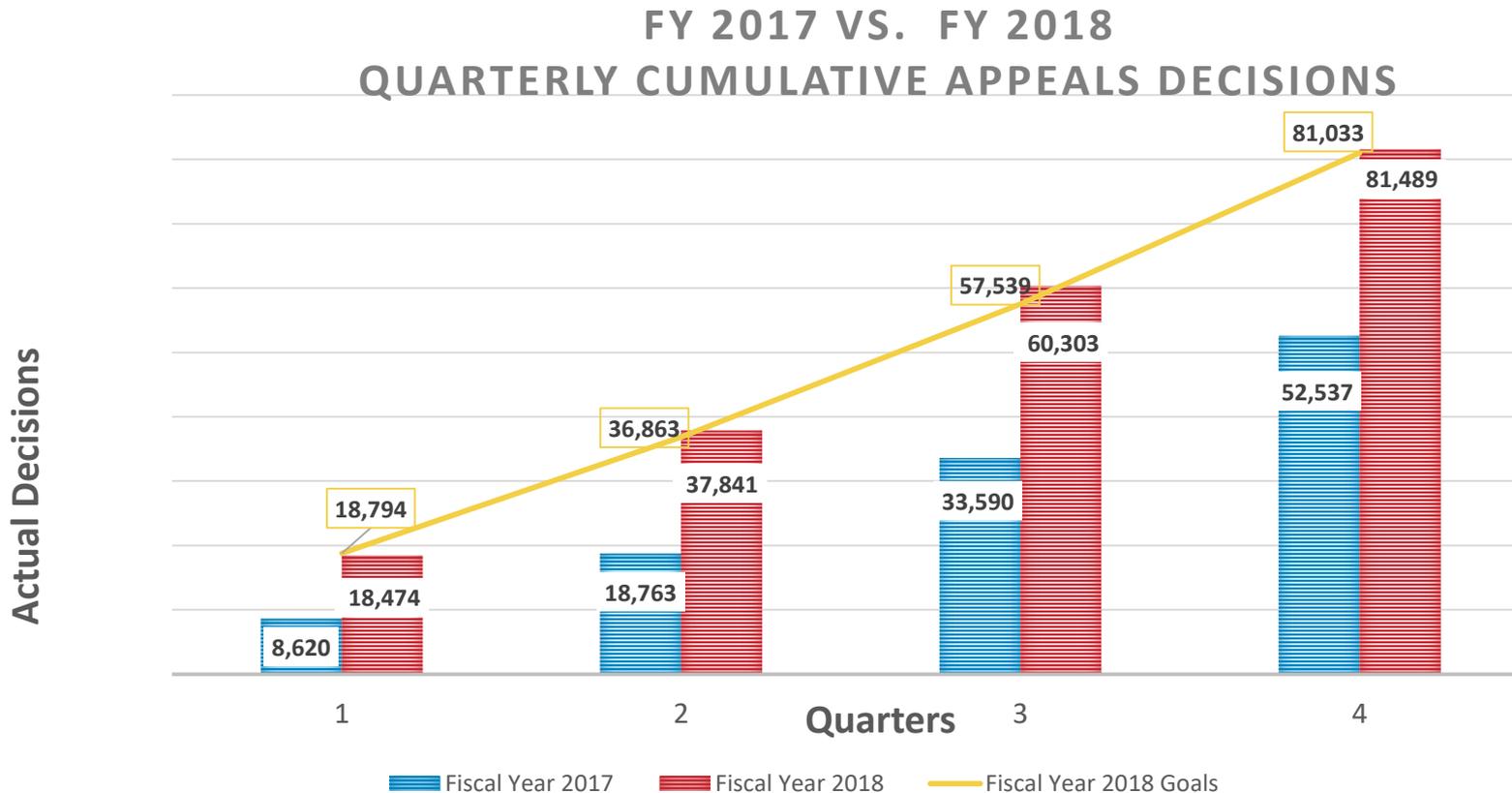
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# Action: Board Decisions YTD

The Board has served more Veterans this year than any fiscal year in the Board's history.



Thru September 16, the Board of Veterans' Appeals has signed 81,489 decisions, which is 65% more decisions as compared to 49,448 decisions signed thru the same period last year. The Board's annual goal is 81,033 decisions.

The Board surpassed last year's decision total of 52,661 dispatched decisions in May.



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# Action: Personnel

- The Chairman recommended new **Veterans Law Judges** for SecVA approval and Presidential appointment.
- To date, the Board is hired 186 **new staff** with approximately 30 more arriving by the end of FY18.
  - This brings the Board to over 1,000 FTE for the first time in the Board's history.



# Action: Board Role in RAMP

## The Board will begin adjudicating RAMP appeals in October

- Once Veterans receive a decision under the RAMP supplemental claim or higher-level review lanes, they will have the option of appealing to the Board.
- The Board holds RAMP appeals in a queue in the order in which they were received.
  - As of September 20, 2018, the Board has received 247 appeals (NODs) of RAMP decisions.
- In October 2018, the Board will begin adjudicating the first of these appeals in a phased implementation to test processes and technology.
  - The Board's phased approach to RAMP will allow the Board to identify and address potential issues and risks relating to implementation of the new framework, while continuing to deliver decisions to legacy appellants at historic levels.



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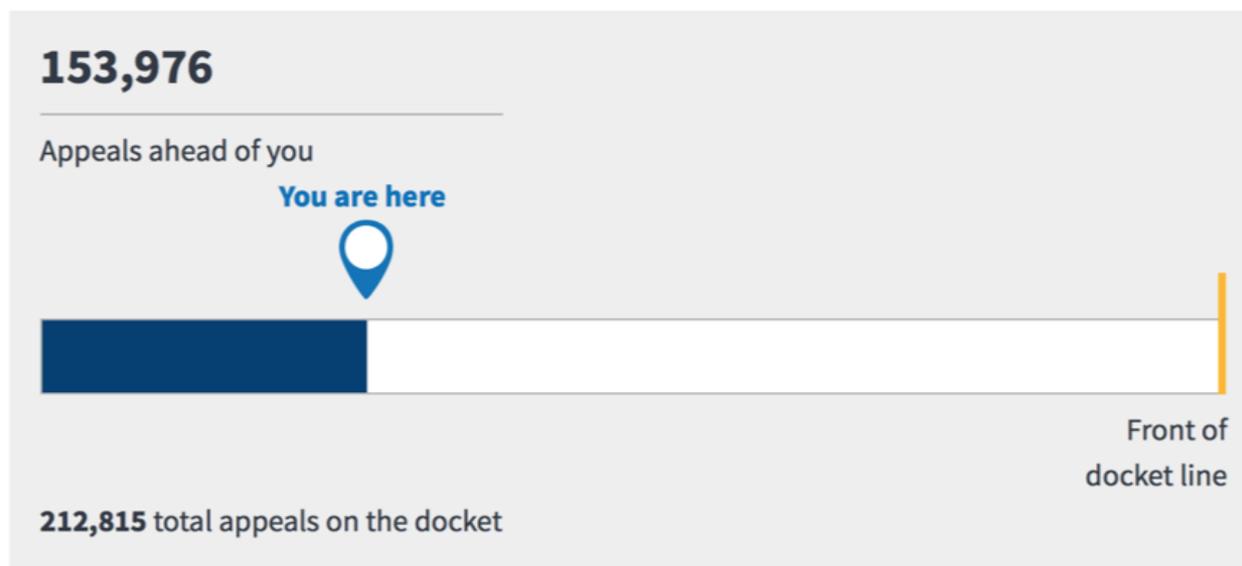
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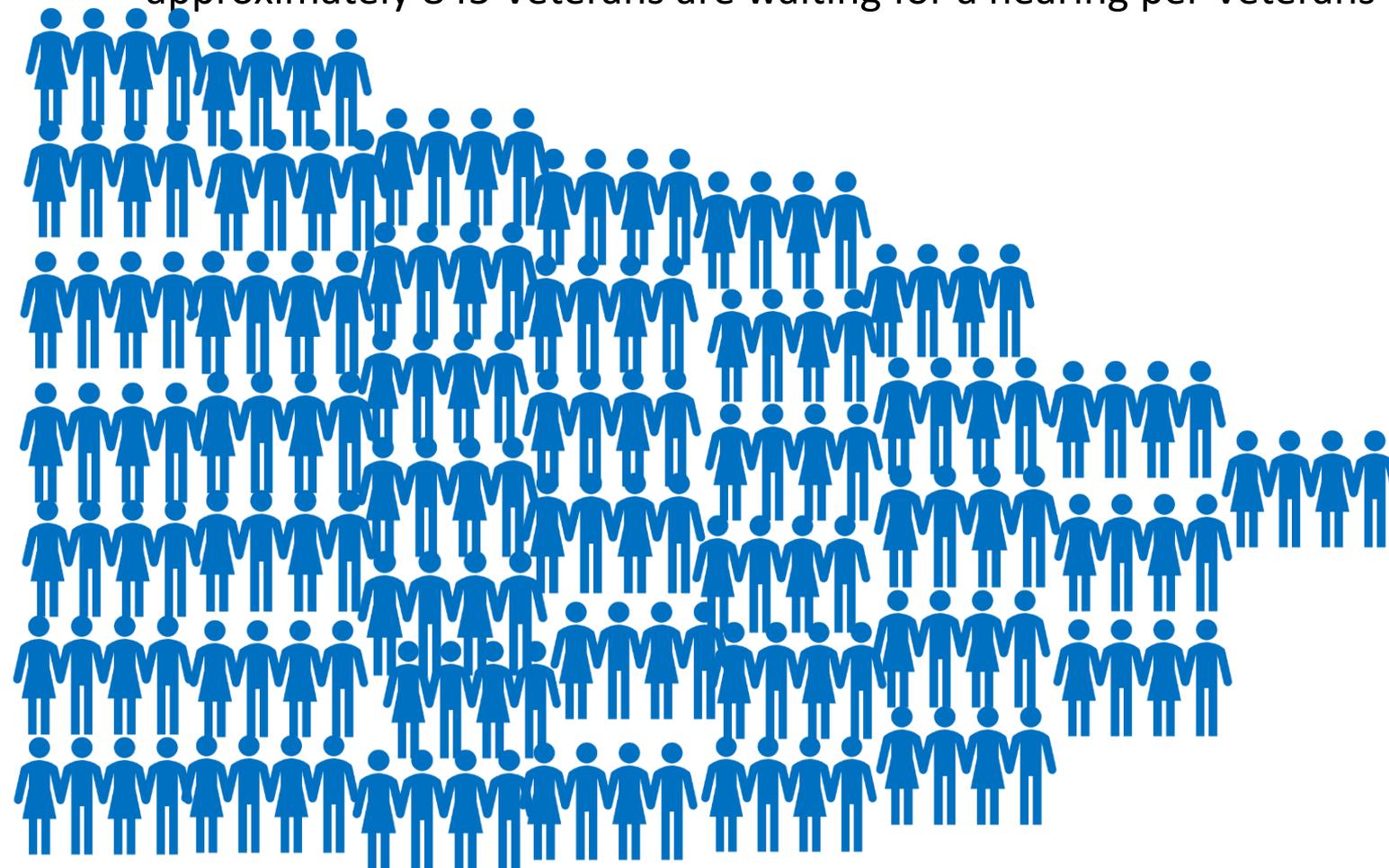
# Service: Improved Customer Service

- **Interactive Decision Template**
  - Improved readability for Veterans
- **Vets.gov Appeals Status Tool**



# Service: Pending Board Hearings

There are currently 78,000 Veterans waiting for a Board hearing. That means approximately 845 Veterans are waiting for a hearing per Veterans Law Judge.



Each VLJ holds roughly 200 hearings per year.

Each figure represents approximately 5 waiting Veterans.



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# Service: Stakeholder Outreach

- Training

- Board
  - New attorney bootcamp
  - Ongoing quality training
  - AMA refresher training
- Within VA
  - VBA
  - VHA
- VSO partners

- Outreach

- VSOs and private bar
  - Ex. American Legion national conference
- Private bar
  - Ex. Federal Circuit Bench and Bar
- Congressional
  - Ex. Event with Congressman Larry Buschon



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# Modernization: Internal Efficiencies

- **Caseflow Reader**

- Improved interface for electronic claims folder
- Launched in November 2017 by Digital Service



- **Specialty Case Team**

- Implemented in May 2018
- More efficient adjudication of specialized areas

- **One Touch Hearing**

- Implemented in April 2018
- Enables Veterans Law Judges to efficiently adjudicate hearing cases with clear dispositions within working docket date range

